

# Arkansas, Inc.

News for Arkansas Corporations from Secretary of State Charlie Daniels

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[www.sos.arkansas.gov](http://www.sos.arkansas.gov)

## Secretary of State Expands Online Services

Improving website features and streamlining to a paperless era — that's the latest customer service improvements in the Secretary of State's Business and Commercial Services Division.

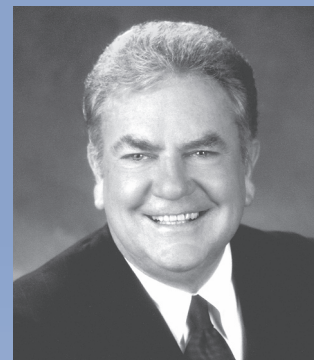
BCS provides a variety of business services that include processing filings for foreign and domestic corporations doing business in Arkansas; collecting franchise taxes; recording Uniform Commercial Code filings and researching those filings; recording trademarks; and filing notary public registrations.

The most recent update allows corporations to truly pay franchise taxes online, using a credit card or electronic/ACH check. The easy-to-use electronic system builds each franchise tax filing according to information provided by the filer. Automatic calculations help eliminate math errors that frequently delay processing. The system then generates e-mail confirmations with copies of each completed filing to the customer.

Other updates to the Business and Commercial Services website include:

- A new portal providing customers the ability to file, search, and view all forms and files;
- A customer-friendly database containing all commercial code records on file from January 2, 1962, and archived images for all filings;
- The ability to download good standing reports and search for fictitious names;
- A software upgrade which provides itemized daily reports to the Business and Commercial Services staff.

To access the division's website, visit [www.sos.arkansas.gov](http://www.sos.arkansas.gov).



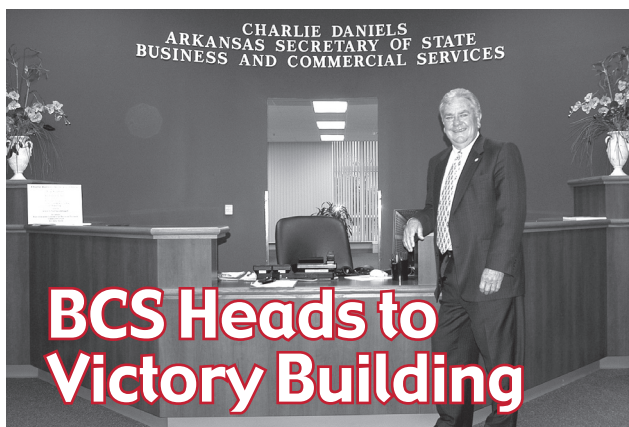
*Secretary of State Charlie Daniels*

It is my pleasure to provide this first edition of Arkansas, Inc., a newsletter for companies doing business in Arkansas. This publication will be a forum for communicating news of interest regarding the Business and Commercial Services Division of the Arkansas Secretary of State. It's just one of the projects my staff has undertaken to provide the best possible service to you.

In addition to our new physical facilities in the Victory Building, you'll also read about the expansion of our online services for businesses. Our website, [www.sos.arkansas.gov](http://www.sos.arkansas.gov), makes it easy to access the business information you need, right from your own desktop. It's even convenient to pay franchise taxes online using a credit card or check.

This newsletter also brings you news about changes in UCC filings and franchise tax rates, as well as answers to questions we hear most often from our patrons.

I welcome your feedback on this publication and am always happy to be of service to you. Please feel free to contact me at (501) 682-1010.



## BCS Heads to Victory Building

Arkansas businesses now enjoy a new level of convenience with the relocation of one of the Secretary of State's most-accessed divisions.

The Business and Commercial Services Division has moved to state-of-the-art facilities in the new Victory Building, two blocks east of the State Capitol grounds on Capitol Avenue. The new office is adjacent to the division's previous location at Capitol and Woodlane.

"We're excited about the new facility because it allows us to provide more

efficient service to the business community of the state," said Secretary of State Charlie Daniels. "The benefits of the location make it much easier to complete filings."

The new offices are located in the Victory Building, 1401 West Capitol Avenue, Suite 250. Customers can park for free in the covered ground-level lot, then simply take the nearby elevators to the second-floor suite. There

they will find a comfortable waiting area with computer access for completing certain services via the Internet. Professional staff will be available to help complete filing processes.

The new 8,000 square-foot office is smaller than the previous location with lower annual rental charges.

"The new facilities give us a more efficient, more workable space, so we're able to do more with less square footage," Daniels said.

# Business and Commercial Services

## Frequently Asked Questions

### Business Services

**Q: What is franchise tax?**

**A:** Franchise tax is an annual privilege tax that is assessed to any non-exempt corporation, (domestic and foreign/active and inactive) which qualifies under the Arkansas law with the purpose of obtaining corporate privilege, which is not allowed to them as individuals.

**Q: Can I fax in the paper work to pay franchise tax?**

**A:** No, the Secretary of State's office must have original signatures on all documents.

**Q: Do I have to incorporate my business?**

**A:** No, you can operate as a sole proprietorship, but must file on the county level.

**Q: What is a domestic filing?**

**A:** Any entity filed in the state of Arkansas, whose primary filing is in this state.

**Q: What is a foreign filing?**

**A:** Any entity that is filed with another state, then chooses to do business in Arkansas, as well. Foreign corporations must file in Arkansas to do business in the state.

**Q: Where could I find out about a company not on file with the state?**

**A:** Check with the county clerk in the county where the business is located.

**Q: What does it mean when the form asks "what will I do with assets upon dissolution?"**

**A:** This question is one that will be answered depending on federal non-profit status. Certain criteria must be met with the IRS.

**Q: What is dissolution/withdrawal of a business?**

**A:** The business has filed all the paperwork and fees to discontinue business in Arkansas.

**Q: How do I get a Tax ID number?**

**A:** Tax ID numbers are obtained through the IRS and can be filed for online or by mail.

**Q: Where can I go to get a state business license?**

**A:** It depends on the type of license needed. Examples: contractor – Contractor's Licensing Board; realtor – Real Estate Licensing Board; lawyer – Arkansas Bar Association

**Q: Why do I pay franchise tax if I'm not in business any longer?**

**A:** Franchise taxes are due until the entity is dissolved in our office. The dissolution is effective only after the proper paperwork is filed with the Secretary of State and all fees are paid.

**Q: If XYZ Corporation is revoked, why can't I use the name?**

**A:** 1. Entity names are protected for a time period of 7 years after being revoked according to current law.  
2. Entities revoked before 12/31/99 must be revoked for a period of 15 years before the name is available.

**Q: What is an incorporator?**

**A:** The person who is responsible for filing the articles of incorporation of the entity. (Not necessarily the owner.)

**Q: Where do I get a tax exemption for a non-profit?**

**A:** The IRS provides these forms online or by mail.

**Q: What does it mean when a company is revoked?**

**A:** The entity has not met all franchise tax requirements with the Secretary of State's Office.

**Q: What does it mean by assets on the tax form?**

**A:** The value of the real and personal property of the corporation.

**Q: What do I need to do to file an "S" corp.?**

**A:** Contact The Department of Finance and Administration

**Q: What is an apostille?**

**A:** A certificate issued on a document that has been notarized or signed by an elected official in the State of Arkansas and is being sent to a country that is a member of the Hague Treaty.

**Q: What is a certification?**

**A:** Similar to an apostille, a certification is issued on a document that has been notarized or signed by an elected official in Arkansas and is being sent to any country that is not a member of the Hague Treaty.

**Q: What is good standing?**

**A:** A certificate issued by the Secretary of State on any entity that is on record and has filed all franchise tax forms and fees with this state.

**Q: What is a certified copy?**

**A:** Is a true and perfect copy of the documents of an entity duly recorded with the Arkansas Secretary of State.

### Commercial Services

**Q: How long is a filing good?**

**A:** 1. Filings are good for 5 years from the date of filing unless a continuation is filed.  
2. Transmitting utilities do not lapse.  
3. Public-finance transactions are good for 30 years.  
4. Manufactured homes are good for 30 years.

**Q: Do we file state liens?**

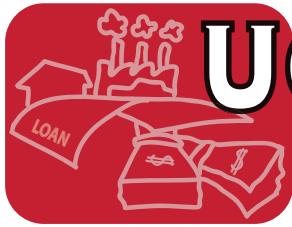
**A:** No we only file federal tax liens on companies and corporations.

**Q: What is filed with the state now that RA9 has been enacted?**

**A:** All filing types such as federal tax liens, financing statements, manufactured homes, public financing transactions, transmitting utilities. Only agricultural related liens are filed on the county level.

**Q: What is a continuation?**

**A:** A filing that extends the original expiration date of a UCC filing beyond the five-year term.



## REVISIONS STREAMLINE PROCESS ... but opens the door to bogus filings

While a revision to the Uniform Commercial Code (UCC) has streamlined certain processes involving secured transactions, the change unexpectedly opened the door to fraudulent UCC filings. However, the National Association of Secretaries of State is at work to develop a workable solution.

The Uniform Commercial Code is a set of state laws that were developed and passed in nearly all U.S. jurisdictions to allow for a "uniform" basis for conducting business throughout the United States. Article 9, Secured Transactions is considered the most important part of the code and was recently revised to simplify procedures.

### Revising the Code

Revised Article 9 (RA9) sets out the rules for each transaction "that couples a debt with a creditor's interest in a debtor's personal property." The resulting contract is referred to as a secured transaction. For example, when a person buys a tractor and finances the purchase through a financing company, the rules that govern the relationship among the debtor (buyer), the finance company (creditor or secured party) and the tractor (collateral or secured interest) are covered by RA9. These rules become particularly important if the debtor defaults on the loan and the creditor decides to repossess and sell the property.

The desire to simplify, streamline and add uniformity to the process across state lines prompted the adoption of RA9 in most states. RA9 greatly improved the process by providing uniform forms, removing signature requirements and removing the requirement of the filing agency to inspect financing statements other than for completeness. The drafters of RA9 felt that burdening filing officers with the decision in trying to determine the validity of filings would severely slow the process. Therefore, a conscious decision was made to err in favor of efficiency, an underlying principle of RA9.

And, indeed, this is what has happened. The system has become more automated with electronic filings and searches gaining a larger percentage of the day-to-day workload. The new system is proving to be both efficient and effective for both the filers and for the Secretary of State.

However, within a short time after the new law was implemented, Secretaries of State noticed an increase in the number of fraudulent and bogus filings. Prisoners and other persons began using false UCC filings to harass public officials, listing judges, prosecutors and law enforcement officers as debtors.

Those officials soon discovered that substantial amounts of money, hundreds of millions of dollars in some cases, were listed as being owed to the bogus filers. Of course, these filings are not legal and binding contracts, but there is the potential for damage to the victims' credit reports, even though the UCC filing is merely a notice of a possible lien and not a lien in itself.

### Devising a Solution

As a result of the increased fraudulent and bogus filings, NASS and the International Association of Commercial Administrators have formed a task force to study this problem. Their goal is to address the issue without destroying the original philosophy of RA9. The final report will be completed in time for states to pass legislation in the 2005 legislative assemblies.

The draft report proposes an uncomplicated motion and affidavit to be filed by the affected party. Limited filing fees and court costs would accompany this expedited review of the questionable financing statement. If the court agrees with the plaintiff, the resulting order would be filed at no cost with the Secretary of State. This solution would result in limited expense to the victims of this harassment, in most cases public officials only doing their jobs.

For more information on the subject or to obtain a copy of the draft report, please contact the Legal Office of the Arkansas Secretary of State, (501) 682-3401.

## So You Want To Start A Business??

Have a great idea for a business but don't know where to start? The Secretary of State's Business and Commercial Services Division is here to help you get incorporated. Many of the tools you'll need are available online at [www.sos.arkansas.gov](http://www.sos.arkansas.gov) or call (501) 682-3409. Just follow the steps...

1. Decide on what kind of business you want to open.
2. Pick a name, then search online or call BCS to see if it is available.
3. Complete the necessary form for the type of business you have chosen: For-profit, Non-profit, Limited Liability Company, Limited Partnership, Limited Liability Partnership, Limited Liability Limited Partnership — all of these can be filed in state (domestic entities) or out of state (foreign entities).
4. Mail or submit form online with the appropriate fee.
5. The Secretary of State will issue a certificate and file mark a copy of the articles of incorporation.

\*\*\*Anytime a change (name, address, officers etc.) is made in a company, an amendment must be filed with the Secretary of State's Office.

\*\*\*To discontinue a business, dissolution / withdrawal fees and forms must be filed with the BCS Division.



## New Franchise Tax Rates, Deadline for 2005

As part of its funding plan for improvements in the state education system, the Arkansas Legislature passed Act 94 of the Second Extraordinary Session of 2003, codified as 26-54-104. This law increases the state's franchise tax. The new rates will apply to the 2004 tax year and will be due on a new date, May 1, 2005. To file online, log onto [www.sos.arkansas.gov](http://www.sos.arkansas.gov).

**File  
Online!**

The following chart compares the previous Franchise Tax rates with the new rates payable in 2005:

| Franchise Tax Type  | Tax due through the 2004 Reporting Year                | Effective 2005 Reporting Year                         |
|---|--|---|
| Corporation/Bank with Stock   | .27% of the outstanding capital stock<br>\$50 minimum  | .3% of the outstanding capital stock<br>\$150 minimum |
| Corporation/Bank without Stock  | \$100  | \$300   |
| Limited Liability Company   | \$50   | \$150   |
| Insurance Corporation<br>Legal Reserve Mutual with Stock Greater Than \$100 million | \$200  | \$400   |
| Insurance Corporation<br>Legal Reserve Mutual with Stock Less Than \$100 million    | \$100  | \$300   |
| Insurance Corporation<br>Legal Reserve Mutual with Stock Greater Than \$500,000     | \$200  | \$400   |
| Insurance Corporation<br>Legal Reserve Mutual with Stock Less Than \$500,000        | \$100  | \$300   |
| Mortgage Loan Corporation   | .27% of the outstanding capital stock<br>\$100 minimum | .3% of the outstanding capital stock<br>\$300 minimum |
| Mutual Assessment Insurance Corporation   | \$100  | \$300   |

*Note: 26-54-105. Franchise tax reports.*

*d)(1) Every corporation that dissolves shall be required to pay at the time of dissolution the franchise tax for the prior calendar year and pay at the time of dissolution the minimum franchise tax for the year in which dissolved or withdrawn.*

... revenue for 2003 • 129,268 corporate entities on file and in good standing in Arkansas • Beginning July 1, Home Inspectors file with the state Home Inspector Board.



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Secretary of State

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